



Patent
Attorney's Docket No. TNCR.196US2

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of)
Ibrahim ABDULHALIM et al.) Group Art Unit: 2877
Application No.: 10/699,153) Examiner: Layla G. Lauchman
Filed: October 30, 2003) Confirmation No.: 1463
For: PERIODIC PATTERNS AND)
TECHNIQUE TO CONTROL)
MISALIGNMENT BETWEEN TWO)
LAYERS)

**PETITION TO INVOKE THE SUPERVISORY AUTHORITY
OF THE COMMISSIONER UNDER 37 C.F.R. § 1.181(a)**

Attn: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

The Applicants respectfully request invocation of the supervisory authority of the Commissioner in the above-captioned application for extensions of time to respond to the information request of the outstanding December 27, 2005 Office Action. This Petition accompanies a simultaneously-filed Response providing the Examiner with the requested information described under 37 C.F.R. § 41.202.

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BACKGROUND AND FACTS

An Office Action was mailed in the present case on December 27, 2005. The Office Action stated that the information required by 37 C.F.R. § 41.202 was to be provided to the Patent Office within one month of the date of the Office Action and that no extensions under 37 C.F.R. § 1.136 were available. The Office Action asserted that claims 78 - 204 had been added to the application for the purpose of provoking an interference, but that the information required by 37 C.F.R. § 41.202 had not been provided. On January 25 and 26, 2006, Bernice Chen, a representative of the assignee of the present application, left messages for Examiner

Lauchman, asking for an extension of time by which to file the requested information.

Examiner Lauchman returned Ms. Chen's call on January 26, 2006 to let her know she was looking into the matter. Examiner Lauchman called Ms. Chen later on January 26, 2006 to confirm that she had spoken with her supervisor and that extensions of time for providing the information under 37 C.F.R. § 41.202 could be done in the same manner as responding to an outstanding Office Action.

Ms. Chen requested the additional time to retain the undersigned attorneys to advise her regarding possibly provoking an interference and to complete her analysis of the subject matter claimed in several pending applications and issued patents. Contrary to the assertions of the December 27, 2005 Office Action, the Applicants had not filed, and have not to date filed, a request for declaration of an interference in the present application. Instead, the Applicants have copied claims from several pending applications and issued patents into the present application to satisfy the requirements of 35 U.S.C. § 135(b) while they complete their analysis.

During the period from February 10, 2006 to February 21, 2006, the undersigned made several telephone calls to Ex. Lauchman and to her supervisor, Greg Toatley to determine how to proceed given the difference in response time stated in the December 27, 2005 Office Action and the guidance provided by the Examiner to Ms. Chen. Mr. Toatley recommended that a petition be filed under 37 C.F.R. § 1.181 explaining the circumstances and asking that the U.S. Patent and Trademark Office accept an extension of time for responding to the information request.

ACTION REQUESTED

The Applicants respectfully request a waiver from the requirement stated in the December 27, 2005 Office Action that the information requested under 37 C.F.R. § 41.202 be provided within one month and that the Applicants be permitted to provide the requested information in a Response being filed concurrently, along with a petition and fees for a five-month extension of time.

FURTHER INFORMATION

The Applicants further wish to advise the Patent Office that a complete response to the December 27, 2005 Office Action is being filed concurrently with the present Petition,

accompanied with a Petition for a Five Month Extension of Time and the requisite extension fee under 37 CFR 1.17(a)(5).

The Applicants further wish to advise the Patent Office that the requisite fee under 37 CFR §§ 1.181,1.17(f) is provided herewith.

If any additional fees are required in connection with this Petition, please charge the same to our Deposit Account No. 50-2518.

Respectfully submitted,

Bingham McCutchen, LLP

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Date: June 27, 2006.